



constructive fraud, unfair and deceptive trade practices, declaratory relief, and punitive damages. These allegations arise from a business relationship between the parties established by an October 2016 contract between Plaintiffs and Rapid EPS (the “Agreement”). The amount Plaintiffs are placing into controversy exceeds \$75,000. (Petition at ¶¶ 31-32, 49, 65, 72).

3. On October 1, 2018, the State Court Action was served on Defendants by a process server.

### **GROUND FOR REMOVAL: DIVERSITY JURISDICTION**

4. Pursuant to 28 U.S.C. § 1332, this Court has subject matter jurisdiction because this action is between citizens of the United States and subjects of a foreign nation and the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332(a)(2).<sup>1</sup>

5. Plaintiff Eric Plant alleges that he is a resident of the State of North Carolina. (Petition at ¶1).

6. Plaintiff Eric Plant, LLC alleges that it is a limited liability company organized under the laws of the State of North Carolina, which maintains its principal and registered offices in Mecklenburg County, North Carolina. (Petition at ¶2).

7. Defendant Rapid EPS Limited (“Rapid EPS”) is a corporation organized and registered under the laws of the United Kingdom, which maintains its principal and registered office in Leeds, West Yorkshire, United Kingdom. (Petition at ¶3).

8. Defendant David Brine (“Mr. Brine”) is a subject of the United Kingdom, and a resident of Leeds, West Yorkshire, United Kingdom. (Petition at ¶4).

9. Defendant Michael H. Whittaker (“Mr. Whittaker”) is a subject of the United Kingdom, and a resident of Leeds, West Yorkshire, United Kingdom. (Petition at ¶5).

---

<sup>1</sup> If a federal district court could have original jurisdiction over an action, it may be removed. *See* U.S.C. § 1441(a).

10. Accordingly, the District Court has original jurisdiction over this matter because complete diversity exists between the parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. *See* 28 U.S.C. §§ 1332(a)(2) and 1332(c)(1).

11. This Notice is filed within thirty (30) days of service of the Complaint and summons in the State Court Action and is, therefore, timely under 28 U.S.C. § 1446(b). Pursuant to Local Civil Rule 16.1(d) & (e), the issues in this case have not joined because no final answer to the Complaint in the State Court Action has been filed and the time for doing so has not expired.

### **VENUE**

12. Removal venue exists in the United States District Court for the Western District of North Carolina, Charlotte Division because the General Court of Justice, Superior Court Division of Mecklenburg County, North Carolina is within the Western District of North Carolina, Charlotte Division. 28 U.S.C. §§ 113(c), 1446(a).

### **DOCUMENTS SUBMITTED WITH THIS NOTICE OF REMOVAL**

13. Pursuant to 28 U.S.C § 1446 and Local Civil Rule 73.1 the following documents are attached hereto as the Appendix to Notice of Removal: all process served on Defendant, all pleadings and documents filed in the State Court Action and served upon Defendants, all orders signed by the state judge in the State Court Action and served upon Defendants, and the Notice of Availability of a United States Magistrate Judge to Exercise Jurisdiction form.

14. A copy of Defendant's Notice of Filing Notice of Removal directed to the state court and Plaintiff is attached hereto as Exhibit A. The Notice of Filing Notice of Removal will be promptly filed with the state court and served upon Plaintiff after filing of this Notice consistent with 28 U.S.C. § 1446(d).

WHEREFORE, Defendant respectfully requests that the State Court Action be removed to the United States District Court for the Western District of North Carolina, Charlotte Division.

Respectfully submitted,

**BELL NUNNALLY & MARTIN LLP**

By: /s/Craig M. Warner  
Craig M. Warner  
cwarner@bellnunnally.com  
North Carolina Bar No. 32983  
2323 Ross Avenue, Suite 1900  
Dallas, Texas 75201-2720  
Telephone: (214) 740-1400  
Telecopy: (214) 740-5743

**ATTORNEY FOR DEFENDANTS  
RAPID EPS LIMITED, DAVID BRINE, &  
MICHAEL H. WHITTAKER**

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing instrument was served by delivering the same to the person listed below in the manner and on the date indicated.

Harrison A. Lord  
HAL@askLEGALNC.com  
Kevin G. Sweat  
KGS@askLEGALNC.com  
Lord Law Firm, PLLC  
1057 E. Morehead St., Suite 120  
Charlotte, NC 28204

**VIA ELECTRONIC CASE FILING  
(ECF), E-MAIL, and CMRRR 9414 7266  
9904 2130 6051 98 / 9590 9266 9904 2130  
6051 91**

**DATED** this the 23<sup>rd</sup> day of October, 2018.

/s/ Craig M. Warner  
Craig M. Warner